IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9033 OF 2004

Mr.Sachindra B. Shetye for the Petitioner.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 3RD AUGUST,2005

P.C.:

1. Both the courts below on concurrently found that the Plaintiff is not in possession have declined to grant temporary injunction in favour of the Plaintiff protecting his possession.

2. The learned Counsel appearing for the Petitioner submits that the orders passed by both the courts are based on misinterpretation of entries in the revenue record, which show that the Respondent is un-recognised tenant. In my

opinion, the capacity in which the Plaintiff was in possession may not be relevant for the purpose of grant of temporary injunction. what is to be established is that on the date of the suit the Plaintiff was in possession. The Plaintiff has filed the suit in the year 2002, he filed entries of revenue record in relation to possession only up to the year 1999-00. Entries in the revenue record relating to possession for the years 2000-01 and 2001-02, which are the relevant years have not been produced and therefore, as I do not find any document produced on record which prima facie establishes that the Plaintiff was in possession of the land on the date of the suit, I find no error in the order passed by the courts below. Petition disposed of.

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